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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
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FILED

10 UNITED STATES DISTRICT COURT  
11 CENTRAL DISTRICT OF CALIFORNIA  
12 WESTERN DIVISION  
13

14 UNITED STATES OF AMERICA ex rel.) NO. CV 07-01984 PSG (MANx)  
[UNDER SEAL], )  
15 )  
16 Plaintiffs, )  
17 )  
18 v. )  
19 [UNDER SEAL], )  
20 Defendants. )

21 NOTICE OF ELECTION BY THE UNITED STATES OF AMERICA TO  
DECLINE INTERVENTION

22 [FILED UNDER SEAL PURSUANT TO THE FALSE CLAIMS ACT, 31 U.S.C.  
23 §§ 3730(b)(2) AND (3)]

24 [LODGED CONCURRENTLY UNDER SEAL: [PROPOSED] ORDER RE UNITED  
25 STATES' ELECTION TO DECLINE INTERVENTION AND UNSEALING OF  
26 COMPLAINT]  
27  
28

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10 UNITED STATES DISTRICT COURT  
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12 CENTRAL DISTRICT OF CALIFORNIA  
13  
14 WESTERN DIVISION

14 UNITED STATES OF AMERICA ex rel.) NO. CV 07-01984 PSG (MANx)  
15 NYOKA LEE and TALALA MSHUJA, )  
16 Plaintiffs, ) NOTICE OF ELECTION BY THE  
17 v. ) UNITED STATES OF AMERICA TO  
DECLINE INTERVENTION  
18 CORINTHIAN COLLEGES; ERNST & ) [FILED UNDER SEAL PURSUANT TO  
YOUNG LLP; DAVID MOORE; JACK D. ) THE FALSE CLAIMS ACT, 31 U.S.C.  
19 MASSIMINO; PAUL ST. PIERRE; ) §§ 3730(b)(2) AND (3)]  
ALICE T. KANE; LINDA A. )  
20 SKLADANY; HAND ALDER; TERRY O. ) [LODGED CONCURRENTLY UNDER  
HARTSHORN; and DOES 1 through ) SEAL: [PROPOSED] ORDER RE  
21 500, inclusive, ) UNITED STATES' ELECTION TO  
DECLINE INTERVENTION AND  
22 Defendants. ) UNSEALING OF COMPLAINT]  
23 )  
24 )  
25 )

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27 //

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1 Pursuant to the False Claims Act, 31 U.S.C. §§ 3730(b)(2),  
2 (b)(4) and (c)(3), the United States of America (the "Government"),  
3 by the undersigned attorneys, hereby notifies the Court that, at  
4 this time, the Government elects to decline to intervene and take  
5 over this action.

6 Although it declines to intervene, the Government respectfully  
7 refers the Court to 31 U.S.C. § 3730(b)(1), which allows the  
8 relators to maintain the action in the name of the United States;  
9 providing, however, that the "action may be dismissed only if the  
10 court and the Attorney General give written consent to the  
11 dismissal and their reasons for consenting." Id. The United  
12 States Court of Appeals for the Ninth Circuit has held that,  
13 notwithstanding this language, the Government only has the right to  
14 a hearing when it objects to a settlement or dismissal of the  
15 action. U.S. ex rel. Green v. Northrop Corp., 59 F.3d 953, 959 (9<sup>th</sup>  
16 Cir. 1995); U.S. ex rel. Killingsworth v. Northrop Corp., 25 F.3d  
17 715, 723-25 (9<sup>th</sup> Cir. 1994). Therefore, the Government requests  
18 that, should either the relators or the defendants propose that  
19 this action be dismissed, settled, or otherwise discontinued, this  
20 Court provide the Government with notice and an opportunity to be  
21 heard before ruling or granting its approval.

22 In addition, pursuant to 31 U.S.C. § 3730(c)(3), the  
23 Government hereby requests that the parties serve the Government,  
24 through its undersigned counsel, with copies of all pleadings and  
25 papers filed in the action. The Government also requests that it  
26 be served with copies of all orders filed in the action, and all  
27 papers lodged in the action. The Government notes that 31 U.S.C. §  
28 3730(c)(3) permits the Government to be supplied with copies of all

1 deposition transcripts at the Government's expense, but the  
2 Government currently declines to request that it be served with  
3 deposition transcripts. Pursuant to 31 U.S.C. § 3730(c)(3), the  
4 Government reserves its right to intervene in this action at a  
5 later time upon a showing of good cause.

6 Finally, the Government requests that, of the pleadings and  
7 papers filed or lodged with the Court to date, only the following  
8 documents be unsealed and served on the defendants: (i) the  
9 Complaint; (ii) this Notice; and (iii) the Court's Order Re United  
10 States' Election to Decline Intervention and Unsealing of  
11 Complaint. All other documents currently contained in the Court's  
12 file should remain under seal and not be served on the defendants  
13 or otherwise made public because in discussing the content and  
14 extent of the Government's investigation, such papers are provided  
15 to the Court for the sole purpose of evaluating whether the seal  
16 and time for making an election to intervene should be extended.

17 Respectfully presented to the Court with this Notice is a  
18 proposed Order that implements these requests.

19  
20 DATED: February 24, 2009

Respectfully submitted,

21 THOMAS P. O'BRIEN  
22 United States Attorney  
23 LEON W. WEIDMAN, AUSA  
24 Chief, Civil Division  
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26 Chief, Civil Fraud Section

27 By: 

ABRAHAM MELTZER

28 Assistant United States Attorney  
Attorneys for the  
United States of America

**PROOF OF SERVICE BY MAILING**

I am over the age of 18 and not a party to the within action. I am employed by the Office of United States Attorney, Central District of California. My business address is 300 North Los Angeles Street, Suite 7516, Los Angeles, California 90012.

On February 25, 2009, I served

**NOTICE OF ELECTION BY THE UNITED STATES OF AMERICA TO DECLINE  
INTERVENTION**

on each person or entity named below by enclosing a copy in an envelope addressed as shown below and placing the envelope for collection and mailing on the date and at the place shown below following our ordinary office practices. I am readily familiar with the practice of this office for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

Date of mailing: **February 25, 2009**. Place of mailing:  
Los Angeles, California.

**Person(s) and/or Entity(ies) to Whom mailed:**

**SEE ATTACHED.**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on: **February 25, 2009** at Los Angeles, California.

  
CAROL M. YBARRA

SERVICE LIST

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